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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,360	03/09/2001	Daniel A. Tealdi	7931P001	8325

7590 10/10/2007
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EXAMINER

FELTEN, DANIEL S

ART UNIT	PAPER NUMBER
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3694

MAIL DATE	DELIVERY MODE
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10/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/802,360

Applicant(s)

TEALDI ET AL.

Examiner

Daniel S. Felten

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-10 and 36-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-10, 36-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Receipt of the RCE filed July 23, 2007 is acknowledged. Claims 1-6, 8-10, 36-43 are pending in the application and are presented to be examined upon their merits.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

the claimed invention is directed to non-statutory subject matter. MPEP 2106 IV B 1 (b) indicates that nonfunctional descriptive material is material that cannot exhibit any functional interrelationship with the way computing processes are performed. Thus nonfunctional descriptive material cannot render non-obvious an invention that would otherwise be obvious [see In re Gulack, 703 F. 2d 1381, 1385, 217 USPQ 401,404 (Fed Cir 1983)]. With this information in mind, the examiner has interpreted the following limitations as non-functional descriptive material: in claim 5, wherein the record includes information indicating how many of said number of loans products still indeed to be fulfilled, and claim 6, wherein said record includes or more of dates..."

There are also "wherein" clauses that provide optional language [see MPEP 2111.04]

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6, 8-10, 36-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over in view of Levine (US 6,233,566) in view of In re Venner, 262 F. 2d 91, 120 USPQ 193, 194 (CCPA 1958)

Levine discloses, as in claims ,a method for managing loan products on a server (see Levine Abstract, col. 5, lines 55-60),

--receiving by a processor a commitment contract (bid), the commitment contract specifying a number of loan products (loan pool) to be fulfilled to satisfy said commitment contract (see col. 23, line53 to col. 24, line 7).

--managing by said processor one or more underwriting criteria for said loan products, wherein one of said loan products has a corresponding group of underwriting criteria (see Levine, col. 3, lines 16-28; and col. 20, lines 65 to col.21, line 3).

--wherein the step of managing one or more underwriting criteria comprises the steps of: receiving said underwriting criteria from one or more financial institutions (see Levine, col. 3, lines 16-28); storing said underwriting criteria and providing to a first financial institution a group of underwriting criteria corresponding to one of said loan products (see Levine, col. 3, lines 16-28), *as in claims 2, 36*

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--wherein the step of managing one or more underwriting criteria comprises the steps of:

assigning a fulfillment grade to a funded loan; and maintaining a record of funded loans for said loan products (see rejections above), *as in claim 3, 3-39*

-- wherein said fulfillment grade is based on a reliability of data obtained during a

fulfillment process (see rejection above), *as in claim 4, 40-43*

--has nonfunctional descriptive material that is not considered patentable (see rejection above), *as in claim 5*

--has nonfunctional descriptive material that is not considered patentable (see rejection above), *as in claim 6,*

--receiving a request from a first financial institution to transfer to a second financial institution access rights (notification) to said data for one of said one or more loans (see col. 21, line 58 to col. 22, line 37); and

--transferring said access rights (allowing access) to said second financial institution (see col. 21, line 58 to col. 22, line 37);

--settling one or more loans by providing data for one or more registered financial institutions, as in claim 8,

---receiving a request from one of said one or more registered financial institutions to review one or more loans (see col. 21, line 58 to col. 22, line 37),

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--providing and registered financial institution with a predetermined time in which to reject a sale price of said one loan (see col. 21, line 58 to col. 22, line 37),

--automatically settling said loan at said sale price when said registered financial institution accepts, and alternatively fails to reject said sale price Of said one loan before said predetermined time expires,

--instructing said registered financial institution to send payment to a settlement financial institution (see col. 21, line 58 to col. 22, line 37), *as in claim 9*,

--wherein said sale price is a settled price between financial institutions (see col. 21, line 58 to col. 22, line 37), *as in claim 10*,

Levine discloses an underwriting processor (Levine column 3, lines 7+) but does not discloses automatically managing by the processor of one or more underwriting criteria and automatically executing the underwriting criteria. However, in In re Venner The courts held, that broadly providing an automatic or mechanic means to replace a manual activity, as is here, which accomplished the same result is not sufficient to distinguish over the prior art [see MPEP 2144.04]. Thus to automatically managing the processor one or more underwriting criteria and automatically executing actions would be what one of ordinary skill at the time of the invention would expect, having no unexpected results to one of ordinary skill in the art.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Felten whose telephone number is (571) 272-6742.

The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Daniel S Felten
Examiner
Art Unit 3693

DSF
9/11/2007